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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/917,077	07/27/2001	Kevin D. Pollok	D-43379-01	9080

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04/04/2006

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EXAMINER

BUI, LUAN KIM

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/917,077

Applicant(s)

POLLOK ET AL.

Examiner

Luan K. Bui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
4a) Of the above claim(s) 1-11 and 18 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 12-17 and 19-25 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/6/06.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 24 and 25 are finally rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 24 and 25, the phrase "of fro" should be replaced with --of from--.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 12-14, 16, 17, 24 and 25 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al. (5,540,646; hereinafter Williams'646) in view of Oberle (4,855,183) or Ramesh (6,346,285). Williams'646 discloses a patch bag comprising a bag (12) having an open top and a patch (8) adhered thereto and the patch does not cover a portion of the bag between the patch and the open top of the bag (Figure 4). However, Williams'646 fails to show the bag comprises a heat seal capable of withstanding a temperature of at least 70 degree Celsius for a period of at least 4 hours and the patch being adhered to the bag with an adhesive capable of maintaining adhesion of the patch to the bag at a temperature of at least 60 degree Celsius for a period of at least 4 hours.

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Oberle discloses a cook-in bag formed from a multilayer film comprising a bag formed from multilayer structure having inner layers A/B/C/D and an outer layer/patch (E) adhered to layer D by an adhesive layer C (column 10, lines 45 through column 14). The inner layers are considered equivalent to the bag as claimed and the outer layer is considered equivalent to the patch as claimed. Oberle further discloses the bag is capable of withstanding a temperature of 70-100 degree Celsius for up to about 12 hours and any heat sealed seams should resist being pulled apart during cook-in (column 1, lines 30-35). Therefore, the heat seal of the bag of Oberle is inherently capable of withstanding temperature of at least 70 degree Celsius for a period of at least 4 hours and the adhesive layer (C) is inherently capable of maintaining adhesion of the patch (E) to the bag at a temperature of at least 60 degree Celsius for a period of at least 4 hours or 10 hours as claimed. Ramesh discloses a cook-in bag formed from a multilayer film comprising a bag formed from multilayer structure having inner layers (12, 14, 16, 20) and an outer layer/patch (18) adhered to layer 20 by an adhesive layer (column 6, lines 23-32). The inner layers are considered equivalent to the bag as claimed and the outer layer is considered equivalent to the patch as claimed. Ramesh further discloses the bag is capable of withstanding a temperature of 57-121 degree Celsius for 2-12 hours (column 5, line 37-42) and the materials of the film maintain seal integrity. Therefore, the heat seal of the bag of Ramesh is inherently capable of withstanding temperature of at least 70 degree Celsius for a period of at least 4 hours and the adhesive layer is inherently capable of maintaining adhesion of the patch (18) to the bag at a temperature of at least 60 degree Celsius for a period of at least 4 hours or 10 hours as claimed.

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It would have been obvious to one having ordinary skill in the art in view of Oberle or Ramesh to modify the patch bag of Williams'646 so the bag comprises a heat seal capable of withstanding a temperature of at least 70 degree Celsius for a period of at least 4 hours and the patch adhered to the bag with an adhesive capable of maintaining adhesion of the patch to the bag at a temperature of at least 60 degree Celsius for a period of at least 4 hours to prevent the patch bag from falling apart during cook-in.

As to claims 16 and 24-25, Ramesh discloses the film comprises a heat shrinkability of about 20-50% at 185 degree Fahrenheit which is considered equivalent to the bag is made from a film having a total free shrink of at least 10 percent at 185 degree Fahrenheit and the patch is made from a heat shrinkable film having a total free shrink of at least 10 percent at 185 degree Fahrenheit (column 5, lines 55-59). Also, Oberle discloses the film comprises a shrink capacity of about 55% at 185 degree Fahrenheit which is considered equivalent to the bag is made from a film having a total free shrink of at least 10 percent at 185 degree Fahrenheit and the patch is made from a heat shrinkable film having a total free shrink of at least 10 percent at 185 degree Fahrenheit (column 12, lines 5-9).

As to claim 17, Ramesh discloses the bag has a seal layer formed from polyamide. Also, Oberle discloses the bag has a seal layer formed from polyamide.

5. Claims 15 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 12 above, and further in view of The European Publication No. 0,622,437 to Sasano et al. (hereinafter Sasano'437). Williams'646 further fails to show the

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adhesive comprises polyurethane. Sasano'437 teaches a polyurethane adhesive composition for laminating multiplayer composite films at a high temperature of at least 135 degree Celsius and the films have been developed for use as packaging materials for foods since the polyurethane adhesive is excellent in adhesive properties, acid resistance and hot water resistance. It would have been obvious to one having ordinary skill in the art in view of Sasano'437 to modify the adhesive of Williams'646 as modified so the adhesive comprises polyurethane for better the bag from being pulled apart during cook-in.

6. Claims 19-23 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 12 above, and further in view of Brady et al. (5,545,419; hereinafter Brady'419). Williams'646 as modified further fails to show the seal being through the bag and not through the patch. Brady'419 shows in the embodiment of Figures 14-15, a bag having a seal (230, 232) through the bag and not through the patch or the seal through both the bag and the patch (Figure 16). It would have been obvious to one having ordinary skill in the art in view of Brady'419 to modify the bag of Williams'646 as modified so the seal is through the bag and not through the patch to reduce and the cost of manufacture.

As to claim 20, Brady'419 shows the seal through the bag and the patch (Figure 16).

As to claim 21, Brady'419 shows the bag is an end-seal bag and the patch overhangs both side edges of the bag (Figure 12).

Response to Arguments

Applicant's arguments with respect to 3/6/2006 have been considered but are deemed to be moot in view of the new grounds of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is 571-272-4552. The examiner can normally be reached on 8:30-6.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. **The fax phone number for the**

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organization where this application or proceeding is assigned is 571-273-8300 for Formal papers and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

lkb
April 2, 2006

A handwritten signature in black ink, appearing to read 'Luan K. Bui', with a stylized flourish extending to the right.

Luan K. Bui
Primary Examiner
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